

JANUARY 17, 2008

**MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT**

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION**

08 C 399

David Jordan
6998 Ramsey Rd.
Hebron, IN 46341

Plaintiff,

v.

Curtis O Barnes, A Professional Corporation
c/o Curtis O Barnes, Registered Agent
390 W Cerritos Ave
Anaheim, CA 92805

Defendant.

CASE NO.:

JUDGE:

**JUDGE SHADUR
MAGISTRATE JUDGE SCHENKIER**

**COMPLAINT FOR DAMAGES
UNDER THE FAIR DEBT
COLLECTION PRACTICES ACT
AND OTHER EQUITABLE RELIEF**

JURY DEMAND ENDORSED HEREIN

JURISDICTION AND VENUE

1. Jurisdiction is founded on 28 U.S.C. §1331 pursuant to the Fair Debt Collection Practices Act (FDCPA), 15 U.S.C. §1692. Venue is proper in this district because this is the judicial district where all of the events giving rise to the cause of action took place.

FACTS COMMON TO ALL COUNTS

2. The Plaintiff is a person who incurred a consumer debt primarily for personal, family or household purposes.
3. Defendant is a corporation doing business primarily as a consumer debt collector.
4. Defendant is a debt collector as defined by the FDCPA, 15 U.S.C. §1692a(6).
5. The Plaintiff is a "consumer" as defined by 15 U.S.C. §1692a(3).
6. The debt in question qualifies as a "debt" as defined by 15 U.S.C. §1692a(5).

7. Defendant is either the holder of the debt or was retained by the current holder to collect the debt.
8. All of Defendant's actions occurred within one year of the date of this Complaint.
9. On or around November 2, 2007, Defendant telephoned Plaintiff.
10. During this communication, Defendant threatened to garnish Plaintiff's wages and make it impossible for Plaintiff to pay Plaintiff's mortgage that if Plaintiff does not make a payment.
11. On or around November 13, 2007, Defendant telephoned Plaintiff.
12. During this communication, Defendant threatened to take Plaintiff to court over the debt if Plaintiff did not agree to a payment arrangement.
13. During this communication, Defendant further threatened Plaintiff that filing the case in court would cause Plaintiff to miss work, have Plaintiff's wages garnished, have a lien placed against Plaintiff's house, have a lien placed against Plaintiff's bank account, and have any of Plaintiff's assets seized.
14. Plaintiff is emotionally distraught and has been compelled to hire counsel to prosecute this action.
15. Defendant has damaged Plaintiff emotionally and mentally and has caused substantial anxiety and stress.
16. Defendant violated the FDCPA.

COUNT ONE

Violation of the Fair Debt Collections Practices Act

17. Plaintiff incorporates each of the preceding allegations as if specifically stated herein.
18. The Defendant violated 15 U.S.C. §1692f in that its actions were unfair and/or unconscionable means to collect a debt.

COUNT TWO

Violation of the Fair Debt Collections Practices Act

19. Plaintiff incorporates each of the preceding allegations as if specifically stated herein.
20. The Defendant violated 15 U.S.C. §1692e, generally, by having non-attorneys overtly state that they could control the decision to litigate and the timing and scope of the litigation, when in fact this would be an attorney decision.

COUNT THREE

Violation of the Fair Debt Collections Practices Act

21. Plaintiff incorporates each of the preceding allegations as if specifically stated herein.
22. The Defendant violated 15 U.S.C. §1692e in that it threatened legal action where such action was not contemplated, and stated for the sole purpose of terrifying the Plaintiff.

COUNT FOUR

Violation of the Fair Debt Collections Practices Act

23. Plaintiff incorporates each of the preceding allegations as if specifically stated herein.
24. The Defendant violated 15 U.S.C. §1692e by making misrepresentations during its conversations with Plaintiff.

JURY DEMAND

25. Plaintiff demands a trial by jury.

PRAYER FOR RELIEF

26. Plaintiff prays for the following relief:

- a. Judgment against Defendant for actual damages, statutory damages pursuant to 15 U.S.C. §1692k and costs, and reasonable attorney's fees pursuant to 15 U.S.C. §1692k.
- b. For such other legal and/or equitable relief as the Court deems appropriate.

RESPECTFULLY SUBMITTED,

MACEY & ALEMAN

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